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THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:

KUTT et al.

Serial No.: 10/806,886

Filed: March 22, 2004

Atty. File No.: 4239-3-1-1

For: "METHOD AND SYSTEM FOR
REDUCING BODY WEIGHT IN
N ENCLOSED ATMOSPHERIC
ENVIRONMENT"

) Group Art Unit: 1724

) Examiner: LAWRENCE Jr., Frank M.

) **INFORMATION DISCLOSURE
STATEMENT**

) "EXPRESS MAIL" MAILING LABEL NUMBER: EV55678777US

) DATE OF DEPOSIT: May 25, 2005

) I HEREBY CERTIFY THAT THIS PAPER OR FEE IS BEING
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SIGNATURE: Chasity C. Rossum

Mail Stop: Amendment

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Dear Sir:

The references cited on attached Form PTO-1449 are being called to the attention of the Examiner.

☒ Copies of the cited foreign patents and/or non-patent references are enclosed herewith.

☒ Copies of the cited U.S. patents and/or U.S. patent application publications are not enclosed

in accordance with 69 F.R. 56482.

☐ To the best of applicants' belief, the pertinence of the foreign-language references are believed to be summarized in the attached English abstracts and in the figures, although applicants do not necessarily vouch for the accuracy of the translation.

☐ Examiner's attention is directed to the following co-pending application(s) for which priority is not being claimed, copies have been or are being submitted:

Serial No. _____ filed _____ (Atty. Dckt. No. _____)

Serial No. _____ filed _____ (Atty. Dckt. No. _____)

☐ Examiner's attention is directed to the following co-pending application(s), to which the current application claims priority, copies of at least the claims for such pending application are provided or have been provided:

Serial No. _____ filed _____ (Atty. Dckt. No. _____)

Serial No. _____ filed _____ (Atty. Dckt. No. _____)

Submission of the above information is not intended as an admission that any item is citable under the

05/31/2005 RFEKADU1 00000025 10806886

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statutes or rules to support a rejection, that any item disclosed represents analogous art, or that those skilled in the art would refer to or recognize the pertinence of any reference without the benefit of hindsight, nor should an inference be drawn as to the pertinence of the references based on the order in which they are presented. Submission of this statement should not be taken as an indication that a search has been conducted, or that no better art exists.

It is respectfully requested that the cited information be expressly considered during the prosecution of this application and the references made of record therein.

FEES

<input type="checkbox"/>	<p>37 CFR 1.97(b): No fee is believed due in connection with this submission, because the information disclosure statement submitted herewith is satisfies one of the following conditions ("X" indicates satisfaction):</p> <div style="margin-left: 20px;"> <input type="checkbox"/> Within three months of the filing date of a national application other than a continued prosecution application under 37 CFR 1.53(d), or <input type="checkbox"/> Within three months of the date of entry into the national stage of an international application as set forth in 37 CFR 1.491 or <input type="checkbox"/> Before the mailing date of a first Office Action on the merits, or <input type="checkbox"/> Before the mailing of a first Office action after the filing of a Request for Continued Examination (RCE) under 37 CFR 1.114. </div> <p>Although no fee is believed due, if any fee is deemed due in connection with this submission, please charge such fee to Deposit Account 19-1970.</p>
<input checked="" type="checkbox"/>	<p>37 CFR 1.97(c): The information disclosure statement transmitted herewith is being filed after all the above conditions (37 CFR 1.97(b)), but before the mailing date of one of the following conditions:</p> <div style="margin-left: 40px;"> (1) a final action under 37 C.F.R. 1.113 or (2) a notice of allowance under 37 C.F.R. 1.311, or (3) an action that otherwise closes prosecution in the application. </div> <p>This Information Disclosure Statement is accompanied by:</p> <div style="margin-left: 20px;"> <input type="checkbox"/> A Certification (below) as specified by 37 C.F.R. 1.97(e). Although no fee is believed due, if any fee is deemed due in connection with this submission, please charge such fee to Deposit Account 19-1970. </div> <p style="text-align: center;">OR</p> <div style="margin-left: 20px;"> <input checked="" type="checkbox"/> A check in the amount of \$180.00 for the fee set forth in 37 C.F.R. 1.17(p) for submission of an information disclosure statement. Please credit any overpayment or charge any underpayment to Deposit Account No. 19-1970. </div>
<input type="checkbox"/>	<p>37 CFR 1.97(d): This Information Disclosure Statement is being submitted after the period specified in 37 CFR 1.97(c).</p> <div style="margin-left: 20px;"> <input type="checkbox"/> This information Disclosure Statement includes a Certification (below) as specified by 37 C.F.R. 1.97(e) </div> <p style="text-align: center;">AND</p> <div style="margin-left: 20px;"> <input type="checkbox"/> Applicants hereby requests consideration of the reference(s) disclosed herein. Enclosed is the fee in the amount of \$180.00 under 37 C.F.R. 1.17(p). Please credit any overpayment or charge any underpayment to Deposit Account No. 19-1970. Please credit any overpayment or charge any underpayment to Deposit Account No. 19-1970. Election to pay the fee should not be taken as an indication that applicant(s) cannot execute a certification. </div>

Certification (37 C.F.R. 1.97(e))
(Applicable only if checked)

☐ The undersigned certifies that:

☐ Each item of information contained in this information disclosure statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this statement. 37 C.F.R. 1.97(e)(1).

☐ A copy of the communication from the foreign patent office is enclosed.

OR

☐ No item of information contained in this information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the undersigned after making reasonable inquiry, no item of information contained in this Information Disclosure Statement was known to any individual designated in 37 C.F.R. 1.56(c) more than three months prior to the filing of this statement. 37 C.F.R. 1.97(e)(2).

Respectfully submitted,

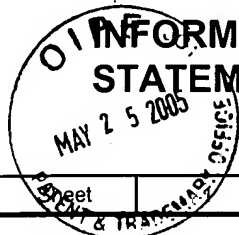
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Date: MAY 25 2005
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Substitute for form 1449A/PTO



INFORMATION DISCLOSURE STATEMENT BY APPLICANT

Complete if Known

Application Number	10/806,886
Filing Date	March 22, 2004
First Named Inventor	KUTT et al.
Art Unit	1724
Examiner Name	LAWRENCE, Frank M.
Attorney Docket Number	4239-3-1-1

Sheet 1 of 6

U.S. PATENT DOCUMENTS

Examiner Initials*	Cite No. ¹	Document Number Number-kind Code ^{2 (if known)}	Publication Date MM-DD-YYYY	Name of Patentee of Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
	1	6,560,991	5/13/2003	Kotliar	
	2	6,557,374	5/6/2003	Kotliar	
	3	6,502,421	1/7/2003	Kotliar	
	4	6,418,752	7/16/2002	Kotliar	
	5	6,401,487	6/11/2002	Kotliar	
	6	6,334,315	1/1/2002	Kotliar	
	7	6,314,754	11/13/2001	Kotliar	
	8	5,924,419	7/20/1999	Kotliar	
	9	5,887,439	3/30/1999	Kotliar	
	10	5,860,857	1/19/1999	Wasastjerna et al.	
	11	5,799,495	9/1/1998	Gast, Jr. et al.	
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	13	5,515,693	5/14/1996	Cahill-O'Brien et al.	
	14	5,437,837	8/1/1995	Olson et al.	
	15	5,383,448	1/24/1995	Tkatchouk et al.	
	16	5,360,372	11/1/1994	Newman et al.	
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	23	5,082,471	1/21/1992	Athayde et al.	
	24	5,063,753	11/12/1991	Woodruff	
	25	5,061,298	10/29/1991	Burgoyne, Jr. et al.	

Examiner Signature		Date Considered	
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*EXAMINER: Initial if reference is considered, whether or not citation is in conformance and not considered. Include copy of this form with next communication to applicant.

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Sheet	2	of	6	Attorney Docket Number	4239-3-1-1

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Examiner Initials*	Cite No. ¹	Document Number Number-kind Code ^{2 (if known)}	Publication Date MM-DD-YYYY	Name of Patentee of Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
	26	4,991,616	2/12/1991	Fabregat	
	27	4,991,616	2/12/1991	Fabregat	
	28	4,826,510	5/2/1989	McCombs	
	29	4,756,723	7/12/1988	Sircar	
	30	4,685,305	8/11/1987	Burg	
	31	4,648,888	3/10/1987	Rowland	
	32	4,632,677	12/30/1986	Blackmer	
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	34	4,334,533	6/15/1982	Henkin	
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	37	3,758,029	9/11/1973	Yoshida	
	38	3,478,769	11/18/1969	Zavod et al.	
	39	1,827,530	10/13/1931	Grand	
	40	1,224,180	5/1/1917	Lake	
	41	904,172	11/17/1908	Batter	
	42	826,029	7/17/1906	Harper	
	43	375,015	12/20/1887	Smith	
	44	365,067	6/21/1887	Harris	
	45	2003/0074917-A1	4/24/2003	Kotliar	
	46	2002/0023762-A1	2/28/2002	Kotliar	
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	49	2002/0016343-A1	2/7/2002	Crocker et al.	
	50	2001/0029750-A1	10/18/2001	Kotliar	

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				Examiner Name	LAWRENCE, Frank M.
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FOREIGN PATENT DOCUMENTS							
Examiner Initials*	Cite No. ¹	Foreign Patent Document Country Code ³ ; Number ⁴ ; Kind Code ⁵ (if known)		Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T ⁶
	51	EP	-	0 959 862 B1	11/28/2001	Hypoxico, Inc.	
	52	EP		0 277 787 A2	8/10/1988	R. Igor Gamow et al.	
	53	EP		0 472 799 B1	3/4/1992	Tradotec S.A.	
	54	EP		0 185 980 A2	7/2/1986	Teijin Limited	
	55	FI		941228	1/19/1999	AGA AB	
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	57	GB		2 238 728 A	6/12/1991	Hepburn	
	58	JP		3-131504	6/5/1991		
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	60	JP		3-52631	3/6/1991		
	61	JP		1-274771	11/2/1989		
	62	SU		1718965 A1	3/15/1992		
	63	SU		1688873-A1	11/7/1991		
	64	SU		1680166 A1	9/30/1991		
	65	SU		1456161 A1	2/7/1989		
	66	SU	-	1338862 A1	9/23/1987		
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	68	WO		04/054493-A2	1/7/2004	McCombs et al.	
	69	WO		03/031892-A1	4/17/2003	Kotliar	
	70	WO		01/78843-A3	10/25/2001	Kotliar	
	71	WO		99/06115	2/11/1999	Kotliar	
	72	WO		97/03631	2/6/1997	Hypoxico Inc.	
	73	WO		96/37176	11/28/1996	Kotliar	
	74	WO	-	95/13044-A	5/18/1995	Rusko et al.	

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Examiner Name	LAWRENCE, Frank M.				
Sheet	4	of	6	Attorney Docket Number	4239-3-1-1

OTHER ART (Including Author, Title, Date, Pertinent Pages, etc.)		
Examiner Initials*	Cite No.	
	75	Prosecution History of U.S. Patent No. 5,964,222 Issued October 12, 1998 Entitled "Hypoxic Tent System"
	76	Prosecution History of U.S. Patent No. 5,860,857 Issued January 19, 1999 Entitled "Method and Apparatus for Controlling the Atmosphere of an Essentially Closed Space"
	77	Prosecution History of U.S. Patent No. 5,799,652 Issued September 1, 1998 Entitled "Hypoxic Room System and Equipment for Hypoxic Training and Therapy"
	78	Letter from Friedrich Bauer of Andrae Flach Haug Regarding European Patent Application No. 96 928 000.7-2310 for Hypoxico Inc.
	79	Rusko; "135: Living High, Training Low; A New Solution to Simulate Altitude Training and to Stimulate Erythropoiesis in Athletes at Sea Level"; <i>International Congress on Applied Research in Sports: Program Abstracts; The Finnish Society for Research in Sport and Physical Education</i> ; August 9-11, 1994; p. 33 (CAT001009)
	80	Rusko et al.; "Living High, Training Low: A New Approach to Altitude Training at Sea Level in Athletes"; <i>Research Institute for Olympic Sports</i> ; 1 p. (CAT001020)
	81	Laitinen et al.; "Acclimatization to Living Normobaric Hypoxia and Training in Normoxia at Sea Level in Runners"; <i>Deaconess Institute, Helsinki, Finland and Research Institute for Olympic Sports, Jyväskylä, Finland</i> ; (date unknown); 1 p. (CAT001021)
	82	Mikkelsen et al.; "Red Cell Mass and Blood Volume Before and After Moderate Altitude Training in Elite Runners"; 1 p. (CAT001022)
	83	Rusko et al.; "Living High, Training Low: A New Solution to Stimulate Altitude Training at Sea Level in Athletes"; <i>Research Institute for Olympic Sports, Jyväskylä, Finland</i> ; (date unknown); 3 pgs. (CAT001025-1028)
	84	Rusko; "Huoneiston Fysiologiset Vaikutukset Ja Harjoittelun Erikoispiirteet"; <i>Vuokatin Matalahappi-Atmosfaarihuoneiston Infotilaisuus</i> ; 25.11.1993; 2pp. (No English Translation) (CAT001034-1035)
	85	Eckardt et al.; "Rate of Erythropoietin Formation in Humans in Response to Acute Hypobaric Hypoxia"; <i>American Physiological Society</i> ; 1989; pp. 1785-1788; (CAT001036-1039)
	86	Schmidt et al.; "Effects of Maximal and Submaximal Exercise Under Normoxic and Hypoxic Conditions on Serum Erythropoietin Level"; <i>Int. J. Sports Med.</i> ; 12(1991):457-461 (CAT001040-1044)
	87	Viitasalo et al.; "The Way to Win"; <i>The Finnish Society for Research in Sport and Physical Education</i> ; 1995; pp. 287-289 (CAT001339-1343)
	88	License Agreement Between Foundation for Research and Development in Olympic Sports (KIHU) and Colorado Altitude Training LLC effective April 1, 2003; 6 pp. (CAT001531-1536)
	89	Letter to Mr. Larry Kutt from Nils T. Ottestad dated January 18, 1999 Concerning Monobaric Altitude Chamber; 2 pp.

Examiner Signature		Date Considered	
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				First Named Inventor	KUTT et al.
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Examiner Name	LAWRENCE, Frank M.				
Sheet	5	of	6	Attorney Docket Number	4239-3-1-1

OTHER ART (Including Author, Title, Date, Pertinent Pages, etc.)		
Examiner Initials*	Cite No.	
	90	European Search Report Issued by the European Patent Office on September 23, 199 for European Patent Application No. 96928000.7; 8 pp. (CAT001635-1641 and 1643)
	91	Certificate of Accuracy for English Translation of an Article in Suomen Urheilulehti (Finnish Sports Journal) on December 9, 1993 by Sorri Entitled "Head Coach Pekka Vahasoyrinki is satisfied with vuokatti Experiment: Effects of the Altitude House are the Same as in the Mountains"; 7 pp. (CAT001917-19123)
	92	Hypoxico Training System; http://www.hypoxico.com ; 1 p. (CAT002793)
	93	Hypoxico Tent System; http://www.hypoxicotent.com/tent.html ; 5 pp. (CAT002794-2797)
	94	Hypoxico Tent System; http://www.hypoxicotent.com/science.html ; 4 pp. (CAT002799-2802)
	95	Hypoxic Tent System; http://www.hypoxicotent.com/technno.html ; 3 pp. (CAT002803-2805)
	96	Article for The Hypoxic Room System; <i>Hypoxico Inc.</i> ; at least as early as 6/6/2001; 2 pp. (CAT002806-2807)
	97	Article for Press Release of The Hypoxic Room System; <i>Hypoxico Inc.</i> ; at least as early as 6/6/2001; 3 pp. (CAT002808-2810)
	98	Article for Technical Specifications, Maintenance, and Warrenty for The Hypoxic Room System; <i>Hypoxico, Inc.</i> ; at least as early as 6/6/2001; 2 pp. (CAT002811-2812)
	99	Article for Hypoxic Training: A History; <i>Hypoxico, Inc.</i> ; at least as early as 6/6/2001; 2 pp. (CAT002813-2814)
	100	"Advanced Breathing Technology"; <i>OBS, Husoysund, Norway</i> ; at least as early as 1/11/1999; 6 pp. (CAT003147-3152)
	101	"Sleep High & Train Low to Go from Here..."; <i>Powerman Zofingen Pictorial: Insidetriathlo</i> "; (date unknown); 1 pg. (CAT003122-3123)
	102	Certificate of Accuracy for English Translation of an Article in Helsingin Sanomat on January 29, 1994 by Reponen Entitled "Sports: Vuokatti Altitude House Causes Sensation, The Finnish 'Secret Weapon' amazes Norwegian and Swedish Skiers"; 5 pp. (CAT003497-3501)
	103	Certificate of Accuracy for English Translation of an Article in Iltalehti on March 15, 1994 (author unknown) Entitled "Athletes and Trail Skiers: European Championship Speed Altitude House"; 4 pp. (CAT003502-3505)
	104	Certificate of Accuracy for English Translation of an Article in Svensk Skidsport in June 1994 Entitled "New Coaches"; 5 pp. (CAT003506-3510)
	105	Certificate of Accuracy for English Translation of an Article in Magazyn Tempo on February 4, 1994, No. 2(4257) by Puszkarczywicz Entitled "Finnish 'Secret Weapon'"; 4 pp. (CAT003511-3514)
	106	Certificate of Accuracy for English Translation of an Article in Finnish Liikunta & Tiede (Physical Activity & Science) Journal (date unclear) by Nurmela Entitled "Optimal Mountain Training in Vuokatti Altitude House?"; 7 pp. (CAT003515-3521)

Examiner Signature		Date Considered	
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Sheet	6	of	6	Attorney Docket Number	4239-3-1-1

OTHER ART (Including Author, Title, Date, Pertinent Pages, etc.)		
Examiner Initials*	Cite No.	
	107	Certificate of Accuracy for English Translation of an Article in Grobbelaar Sues Newspaper on November 11, 1994 by Karlsen Entitled "Sport"; 4 pp. (CAT003522-3525)
	108	Certificate of Accuracy for English Translation of an Article Entitled "'High-Altitude Camp' Vuokatti Physical Education College Report on Nitrogen Delivery"; 15 pp. (CAT003526-3540)
	109	Certificate of Accuracy for English Translation of an Article by Rusko Entitled "Low-Oxygen Apartment's Physiological Effects and Special Characteristics in Training"; 7 pp.; (CAT003541-3547)
	110	Certificate of Accuracy for English Translation of an Article dated January 1994 by Timo Raisanen Entitled "Vuokatti Alp Cottage Offers Skiers Mountain Conditions in Finland"; 7 pp. CAT003548-3551, 3553-3555)
	111	Certificate of Accuracy for English Translation of an Article dated January 1995 Entitled "Vuokatti Sports College alp Cottage Has Been Expanded"; 4 pp. (cover page, CAT003552, 3556-3557)
	112	Certificate of Accuracy for English Translation of an Article on December 9, 1993 by Sorri Entitled "It Was Easier to Make than a Mountain... Altitude House is One Hundred... in which is Fed..."; 4 pp. (CAT003480, 3482, and 3484-3485)
	113	"Pietilasta tuli Luulajassa" Sudden"; <i>Urheilulehti</i> ; 1 p. (No English translation) (CAT003558)
	114	"Veriarvojen Muutokset Kaynnistyneet voimakkaammin kuin vuoristossa"; <i>Urheilulehti</i> ; Lillehammer 1994; 1 p. (No English translation) (CAT003560)
	115	"Neuvostoliiton ja tv:n lapimurto"; <i>Urheilulehti</i> ; 1 p. (No English translation) (CAT003561)

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